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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,166	09/10/2003	Rajendra Jagad	Jagad - 1	3740
7590		06/01/2005		
Rajendra Jagud 2319 Adams Street #22-A Hollywood, FL 33020			EXAMINER PAYNE, SHARON E	
			ART UNIT	PAPER NUMBER
			2875	
DATE MAILED: 06/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/659,166	Applicant(s) JAGAD, RAJENDRA	
	Examiner Sharon E. Payne	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0903</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 7-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims conflict with claim 6, and it appears that these claims should depend on claim 5. For purposes of writing this office action, claims 7-18 will be analyzed as if they depended on claim 5.

3. Claims 5-18 are objected to because of the following informality: the phrase "a power source" should be "a portable power source" in line 7 of claim 5. Claims 6-18 are necessarily included due to their dependency. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 5, 12, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sussel (U.S. Patent 4,170,036).

Regarding claim 1, Sussel discloses an article of jewelry with a flashing diode. The article of jewelry includes a light emitting source having at least two terminals (reference number 16), a portable power source (reference number 38), and a printed circuit board (reference number 32) containing an integrated circuit (column 4, lines 55-60), wherein the light emitting source (reference number 16), portable power source (reference number 38) and the printed circuit board (reference number 32) can be combined in a first configuration such that the light emitting source is in a first state (Fig. 6), and wherein the light emitting source (reference number 16), portable power source (reference number 38) and the printed circuit board (reference number 32) can be combined in a second configuration such that the light emitting source is in a second state (Fig. 7), wherein the first state differs from the second state (column 4, lines 55-68).

Concerning claim 3, Sussel discloses an attachment device (reference number 30) for attaching the light emitting source (reference number 16), portable power source (reference number 38) and printed circuit board (reference number 32) to an object (Fig. 1).

Regarding claim 5, Sussel discloses the steps of attaching an apparatus to an object (column 3, lines 30-35), wherein the apparatus is comprised of a light emitting source (reference number 16), a printed circuit board (reference number 32), and a power source (reference number 38), wherein the light emitting source (reference number 16), portable power source (reference number 38) and the printed circuit board (reference number 32) can be combined in a first configuration such that the light emitting source is in a first state (Fig. 6), and wherein the

light emitting source (reference number 16), portable power source (reference number 38) and the printed circuit board (reference number 32) can be combined in a second configuration such that the light emitting source is in a second state (Fig. 7), wherein the first state differs from the second state (column 4, lines 55-68).

Concerning claim 12, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel discloses the object as a person (column 3, lines 30-40).

Regarding claim 13, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel discloses the object as a gift item (Fig. 1). (Jewelry is often a gift item.)

Concerning claim 16, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel discloses the object as an animal (column 3, lines 30-40). (A person is an animal.)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Wainwright et al. (U.S. Patent 6,217,188 B1).

Regarding claim 2, Sussel does not disclose the first state being a first color and the second state being a second color. Wainwright discloses the first state being where the light emitting source emits light of a first color (Fig. 1), and in the second state the light emitting source emits light of a second color (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the light source of Wainwright et al. in the apparatus of Sussel to create aesthetically pleasing display with fewer connections. See the abstract of Wainwright et al.

8. Claims 4, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Willison (U.S. Patent 5,309,334).

Regarding claim 4, Sussel does not disclose the object as being a plant. Willison discloses the object as being a plant (Fig. 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the plant of Willison with the apparatus of Sussel display a floral arrangement in an aesthetically pleasing way to give a nice gift. See column 1, lines 30-40, of Willison.

Concerning claim 8, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose an artificial plant. Willison discloses the object as an artificial plant (column 5, lines 5-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the plant of Willison with the apparatus of Sussel display a floral arrangement in an aesthetically pleasing way in order to give a nice gift. See column 1, lines 30-40, of Willison.

Concerning claim 9, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose an artificial floral arrangement. Willison discloses the object as an artificial floral arrangement (column 5, lines 5-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the floral arrangement of Willison with the apparatus of Sussel display a floral arrangement in an aesthetically pleasing way in order to give a nice gift. See column 1, lines 30-40, of Willison.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Kertz (U.S. Patent 5,464,456).

Regarding claim 6, Sussel does not disclose a live floral arrangement. Kertz discloses the object as a live floral arrangement (column 5, lines 59-63). (The phrase "any plant" includes a live floral arrangement.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the plant of Kertz in the apparatus of Sussel to keep the plant fresh in order to sell the plant (column 5, lines 30-35, and abstract).

Concerning claim 7, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose the object as a live plant. Kertz discloses the object as a live plant (column 5, lines 59-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the plant of Kertz in the apparatus of Sussel to keep the plant fresh in order to sell the plant (column 5, lines 30-35, and abstract).

10. Claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Lerner (U.S. Patent 3,723,723).

Regarding claim 10, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose a Christmas tree. Lerner discloses the object as a Christmas tree (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Christmas tree of Lerner with the apparatus of Sussel to prepare for a holiday celebration.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Hopps (U.S. Patent 6,296,366).

Regarding claim 11, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose a gift container. Hopps discloses the object as a gift container (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the gift container of Hopps with the apparatus of Sussel in order to protect a gift. See the abstract of Hopps.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Rudoy (U.S. Patent 6,568,828).

Regarding claim 14, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose the object as gift wrap. Rudoy discloses the object as gift wrap (Fig. 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the gift wrap of Rudoy with the apparatus of Sussel to present an attractive gift. See the abstract of Rudoy.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Coleman et al. (U.S. Patent 5,471,373).

Regarding claim 15, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose a candy arrangement. Coleman et al. discloses a candy arrangement (Figs. 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the candy of Coleman with the apparatus of Sussel to amuse children. See the abstract of Coleman et al.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Lipson et al. (U.S. Patent 6,198,872).

Regarding claim 17, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose the object as a display unit. Lipson discloses the object as a display unit (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the display unit of Lipson with the apparatus of Sussel to convey information. See Fig. 1 of Lipson et al.

15. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sussel in view of Buhr (U.S. Patent 2,089,596).

Regarding claim 18, which is being analyzed as if it depended on claim 5 for the reasons specified above, Sussel does not disclose a card holder. Buhr discloses the object as a card holder (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the card holder of Buhr with the apparatus of Sussel to hold and protect a card with information on it from improper retrieval. See column 1, lines 5-11, of Buhr.


Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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